

STATE OF SOUTH DAKOTA)
: SS
COUNTY OF HUGHES)

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

IN RE:

Case No. TC10-26

SPRINT COMMUNICATIONS
COMPANY L.P.,

Complainant,

v.

NATIVE AMERICAN TELECOM, LLC,

Respondent.

**SPRINT COMMUNICATIONS
COMPANY L.P.'S RESPONSE TO CROW
CREEK SIOUX TRIBE UTILITY
AUTHORITY'S MOTION TO DISMISS,
OR IN THE ALTERNATIVE, PETITION
TO INTERVENE**

Comes now Sprint Communications Company L.P. ("Sprint"), by and through its undersigned counsel, and submits this Response to Crow Creek Sioux Tribe Utility Authority's ("CCSTUA") Motion to Dismiss, or in the Alternative, Petition to Intervene. For its Response, Sprint states:

A. THE MOTION TO DISMISS

1. Sprint filed the complaint in this matter against respondent, Native American Telecom, LLC ("NAT").
2. The CCSTUA is not a party to the case, but rather, has made a Motion to Dismiss or, in the alternative, has requested permission from the South Dakota Public Utilities Commission ("PUC" or "Commission) to intervene.
3. CCSTUA's Motion to Dismiss is premature. CCSTUA has not yet been granted intervention by the PUC and as such, is not yet a party to the proceeding.

4. According to ARSD 20:10:01:11.01, the defenses set forth in SDCL § 15-6-12(b) may be raised by motion to dismiss or answer "at the option of the respondent." The administrative rules set forth no method by which a party, arguably interested in the outcome of a PUC proceeding, may file a Motion to Dismiss in that proceeding without first being allowed to intervene.

5. According to ARSD 20:10:01:15.05, only upon being granted intervention does an intervenor gain the rights and responsibilities of a party to the proceeding, including the right to file motions and briefs. Specifically, ARSD 20:10:01:15.05 states in part:

. . . . [a] person granted leave to intervene in whole or in part is an intervenor and is a party to the proceeding. As a party, an intervenor is entitled to notice of hearing, to appear at the hearing, to examine and cross-examine witnesses, to present evidence in support of the person's interest, to compel attendance of witnesses and production of evidence, to submit briefs, to make and argue motions and objections, and to all other rights granted to parties by statute or this chapter.

6. Because CCSTUA has not yet been granted intervention, CCSTUA's Motion to Dismiss should be denied as premature.

B. THE PETITION TO INTEVENE

7. Sprint takes no position on CCSTUA's petition to intervene.

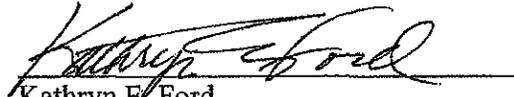
CONCLUSION

Sprint respectfully requests that the PUC deny CCSTUA's Motion to Dismiss as premature. If the PUC allows CCSTUA intervention, Sprint reserves the right to respond to any subsequently filed CCSTUA Motion to Dismiss in the manner and time frames set forth by the PUC.



Dated at Sioux Falls, South Dakota, this 4th day of June, 2010.

DAVENPORT, EVANS, HURWITZ &
SMITH, L.L.P.



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CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Complainant Sprint Communications Company L.P., hereby certifies that a true and correct copy of the foregoing **“SPRINT COMMUNICATIONS COMPANY L.P.’S RESPONSE TO CROW CREEK SIOUX TRIBE UTILITY AUTHORITY’S MOTION TO DISMISS, OR IN THE ALTERNATIVE, PETITION TO INTERVENE”** was served via e-mail upon the following:

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/s/ Kathryn E. Ford